



Saving Lives and Livelihoods: Recommendations for Recovery



APRIL 20, 2020

PHASE 1

Returning to a More Normal
Level of Business Activity at the
Regional Level



PHASE 2

Slowing the Spread While
Expanding Testing, Reporting,
and Contact Tracing



Recommendations for Phases 1 and 2



The first U.S. case of the 2019 novel coronavirus, SARS-CoV-2, was reported on January 19, 2020, in Washington State. Over the next three months, the number of U.S. cases increased to over 700,000 with more than 40,000 deaths and COVID-19 as the cause. About a third of confirmed cases are in New York City, although the virus has spread in pockets throughout the country. States and local communities have responded to the virus by implementing stay-at-home orders, mandating closures of nonessential businesses, and encouraging the practice of sound public health methods like social distancing.

A careful study of previous epidemics suggests that when outbreaks of deadly diseases occur, places that have practiced good public health strategies have been able to recover more quickly. Therefore, a sound public health strategy not only helps to reduce illness and mortality associated with the disease, but also helps to mitigate the long-term economic effects. However, the strategies aimed at containing COVID-19 while not overwhelming the health system have come at a real cost. The policy focus should be on treating and quar-

antining the sick and protecting those who are most vulnerable, not on shutting down American life.

Social distancing is a public health tactic, not a strategy. It flattens the epidemiological curve but also elongates it. It does not change the area under the curve absent some exogenous development—a cure, a vaccine, or a seasonality that causes the pandemic’s progress to stall during the summer before mounting a second wave in the fall. It also carries negative effects both for the health care system and for the broader economy.

First, many more Americans are not receiving the basic health care, including cancer care, that they would receive under normal conditions because they have been told not to leave their homes or have been forced to delay regular interactions with their primary-care doctors, dentists, and other health professionals. Therefore, the reaction to COVID-19 is having other health effects on vulnerable populations.

Meanwhile, the economic consequences are staggering. Over the past four weeks, almost 22 million people have

successfully filed for unemployment insurance. Certain sectors of the economy have been completely shut down. Hours worked by hourly workers have declined by 60 percent according to some estimates, and more than half of all businesses are closed. Lockdown orders lasting eight weeks could cost \$2 trillion in lost output. Importantly, much of this economic activity is essential to communities in many more ways than even the most complicated calculations of economic costs and benefits can capture. If lockdown policies are continued much longer, a great depression could well ensue. Besides causing immense economic suffering, the adverse social and public health effects of such a depression would be profound and last for many years. Moreover, a depression would make it difficult for the United States to address future economic, social, and foreign policy challenges.

The damage that has been done so far will be difficult to reverse, and the consequences could get much worse very soon. Businesses all across America are experiencing significant liquidity problems because of the mandatory closures. They have rent, mortgages, or utility bills to pay while also needing to take care of their workers. Many of these businesses are seasonal, and the summer months drive their revenue for the entire year. We are approaching a tipping point where many of these entrepreneurs may decide that it is better to close their businesses for an extended period of time, file for bankruptcy, and start all over again when the health crisis has subsided entirely. Furthermore, every day that passes increases the amount of time that it will take to get the economy up and running again.

It is very possible that the tipping point for such an event could arrive in June. Therefore, what we do in the next 30 days could decide whether the country has to contend with an economic depression, regardless of whether COVID-19 is suppressed in the next several months or the next year. The steps that we outline in this report are critical for the federal government, state and local governments, the private sector, and civil society to take both to defeat the virus and to avoid economic catastrophe.

This is a plan to save both our lives and our livelihoods. It is not about choosing between protecting lives and the economy but about achieving the delicate balance needed to protect both.

Recovery and setbacks will necessarily be an iterative process as we continue to learn more about the virus and improve capabilities, such as modeling, to inform decision-making. However, keeping economic activities tightly restricted also entails significant risks and costs, and recovery cannot wait for vaccines to be de-

veloped. A substantial loosening of restrictions on economic and social activities in the very near future will provide some critical relief to American workers and businesses that will make full recovery more possible. Any recovery, however, is unlikely to be immediate or total. Too many businesses have failed or will fail, and a return to pre-crisis levels of activity will take time. Restarting business involves liquidity, time, the rebuilding of supply chains and wholesale markets, and extraordinary management bandwidth and supply. The longer policymakers take to begin staged reopening based on local conditions, the more severe and long-lasting the adverse economic and social effects will be.

On April 9, the National Coronavirus Recovery Commission adopted a five-phase plan for reopening America. The first two steps in that plan include returning to a more normal level of business activity while continuing to slow the spread of the novel coronavirus. It is critical that these phases are considered in unison, and to encourage this process, the following recommendations are intended to support both phases.

Restarting economic activities and combating the novel coronavirus requires an “all of society” approach—but one that is not uniform across the entire country, or even entire regions or states. To facilitate this process, our recommendations are organized by the entity that is in the best position to execute them. Furthermore, the decision to reopen the American economy must proceed expeditiously and involve most communities in the country. Stay-at-home orders should be targeted, temporary, and smartly applied.

In addition, our recovery cannot follow a national or top-down approach. Success will require significant coordination among the federal government, state and local governments, the private sector, and civil society.

These recommendations will help to restart economic activity while suppressing the novel coronavirus to provide the American people the confidence to begin returning to normalcy. Finally, it is critical that—barring new information or events that would dictate an extraordinary response—once the economy reopens, it remains open so that Americans’ lives and livelihoods do not continue to be disrupted.

The American system of federalism provides the appropriate governing structure for responding to a crisis with as many different facets and variable effects as we are seeing with COVID-19. State governments necessarily have led and will continue to lead response and recovery. Therefore, that is where we begin.

RECOMMENDATIONS: STATE GOVERNMENTS



There is no single national solution to the recovery process: What is needed and works in Wyoming will not be as relevant in Manhattan. State leaders must drive the decision-making and engage the support of local levels of government, civil society, and the private sector. Recovery will be won or lost on the ground, and states have an obligation to find a way to initiate recovery in the most cost-efficient and expeditious way possible. This is best accomplished by state leadership alongside critical institutions within local communities. The role of Congress and the Administration is to aid that recovery with information and increased flexibility through regulatory relief, funding, and equipment.

Furthermore, it is critical that there be an active partnership between governments at all levels, businesses, and civil society for a successful recovery. Businesses and other private-sector institutions are essential players and will be drivers of recovery. Business leaders must draw on their creativity, ingenuity, technical knowledge, and expertise in management of safe practices, health, and the well-being of employees to lead in safely orchestrating a restarting of the economy.

With this in mind, governors and local leaders should work with their local private-sector institutions (including businesses and core representatives of civil society like churches and community organizations) to take the lead on restarting economic and core social activities and should do so as quickly as possible. Stay-at-home orders should be used sparingly and only where necessary. Sweeping and poorly targeted social distancing practices harm those who require nonemergent care and cripple economies. Plans to reopen economic activity must be properly targeted. Governors should communicate extensively with counties and mayors to deploy decisions on a county-level or zip code-level basis. The Centers for Disease Control and Prevention (CDC) and state and local health authorities can help to inform and support decisions, which come most effectively from governors and mayors.

The mechanics of reopening individual economies should proceed as expeditiously as possible. Testing will play an important role in return-to-work decisions; however, ev-

ery test should have a purpose that informs a decision. State and county specific surveillance plans and reporting should be developed by the state (with assistance from, or in conjunction with, the federal government) to inform decision-making; apportion federal resources and assistance; protect commerce and transportation; identify and define disease characteristics (e.g., incidence, prevalence, preexisting immunity, and “herd immunity”); and provide early warning of disease on a recurrent basis.

Diagnostic testing sites, as designated by public health authorities, should be readily accessible. Testing sites must be able to process people in a manner that does not place them or others at additional risk and should provide a copy of the results for patients to present, if requested, to others such as their employers.

It is also critical to deal appropriately with those who test positive. To date, the practice in the U.S. is to hospitalize those who test positive or send them home. In either case, people shedding virus are placed in close quarters with people who are uninfected. South Korea sends such patients to temporary isolation facilities (repurposed dormitories or other similar spaces) until they test negative. Such facilities also serve as triage centers, with those exhibiting more serious symptoms being transferred to hospitals.

State and local public health officials that anticipate a surge in COVID-19 cases should strongly consider acting now to prepare temporary isolation facilities. Mandatory assignment to such facilities raises civil liberty concerns, but public officials should use public education campaigns to encourage people to protect their loved ones rather than expose them to infection. Such a voluntary campaign holds great potential for reducing the rate of infection over time, as the experience of South Korea has illustrated.

Restarting the economy should proceed expeditiously and account for four key factors:

1. ***Businesses in counties with low incidence should be allowed to reopen.*** In some cases, it may be necessary to impose some limita-

tions. For example, restaurants might have to limit the number of patrons they seat at any given time, and staff might be required to wear masks and gloves; grocers may continue to take steps to ensure that commonly touched items are kept clean. Healthy, low-risk workers should be allowed to return to their jobs immediately, and vulnerable populations (the elderly and people with underlying medical conditions) should remain at home.

2. ***These steps should be combined with steps to continue to protect the more vulnerable who are known to be at special risk for contracting the disease—the elderly, those in nursing homes, and those who have preexisting conditions.*** Businesses and other gathering places should be cleaned appropriately. Where appropriate, other mitigation tools the CDC recommends, such as hand sanitizer and masks, should be made available.
3. ***Individuals who develop identifiable symptoms should immediately notify their employers, remove themselves from the workplace, and self-isolate.*** These individuals and those who interact with them should be medically evaluated and tested: If “negative,” they should repeat testing in 48 hours and, if negative again, may return to work; if “positive,” they should follow the latest guidance before returning to work.
4. ***Governors should also focus on the remaining populations unable to return to work,*** including individuals who do not feel comfortable returning to work but otherwise can be offered an antibody and an antigen test and then offered the opportunity to return to work.

Recommendations to support this approach include the following:

The Commission recommends that states should gather better data through testing and contact tracing. State and local authorities, with material assistance from the federal government, especially the United States Public Health Service, should:

1. ***Reject calls for universal testing of every American before loosening social distancing and instead embrace targeted testing as described below.*** We must not keep the economy shut down until universal testing is available.

2. ***Begin testing those who are asymptomatic as informed by epidemiologists.*** Targeted random-sample testing at the state and county levels will help to determine the prevalence of the virus (because many of those who are infected may be asymptomatic). Such efforts will help policymakers assess virus penetration and the scope of the public health problem and respond accordingly.

3. ***Use contact tracing while ensuring rigorous privacy protections.*** New technologies that increase the efficiency and effectiveness of contact tracing should be explored and developed. Contact tracing has been around in low-tech forms for years, so even as high-tech solutions are developed, state and local leaders can use more traditional methods immediately.

4. ***Focus on containing virus infection hot spots, as well as areas where evidence suggests a hot spot is likely to develop, through targeted mitigation measures.*** Public officials should remain vigilant in identifying potential COVID-19 hot spots and should consider taking more aggressive steps to combat the contagion in these areas. Policymakers should also consider imposing travel restrictions to isolate those hot spots and prevent those who are infected from seeding outbreaks elsewhere. Excess hotel capacity and other such places may be repurposed as isolation and care facilities. Participation should be voluntary, and policymakers may want to undertake education campaigns to encourage people to use these facilities to protect their families from the pathogen.

The Commission recommends that states track data changes to trigger policy changes. While most businesses and schools should be permitted to reopen at the earliest feasible date, state and local policymakers should look for a resurgence in new cases, COVID-19 hospitalization rates, and death rates and a decline in recovery rates. Communities that show a disturbing trend on these metrics may require strong public health interventions to prevent a resurgence of outbreaks.

The Commission recommends that, when they deem it appropriate, governors allow businesses to reopen and persons to return to work expeditiously, taking appropriate preventive measures.

The Commission recommends that governors should take the lead on pro-business reforms to jump-start

the economy and encourage consumer confidence.

This should include easing restrictions on home-based businesses; easing unnecessary regulations on child care providers and allowing non-licensed co-ops between parents; allowing gig-based businesses to provide compensation, such as for sick leave, that would help to alleviate the spread and economic consequences of COVID-19 without triggering their treatment as an employer; and reducing or removing restrictive labor policies, such as increased minimum wages or prohibitions on independent work. States should also allow employers in union-run pension plans to reduce or skip contributions as long as the union amends its collective bargaining agreement to temporarily freeze pension accruals.

The Commission recommends that states help families return to work with access to K-12 education by making existing education funding student-centered and portable.

Many parents and guardians who now find themselves in charge of teaching and monitoring their children's educations are unable to access the public schools they pay for through their taxes and are looking for continuity in their children's education. States should immediately restructure per-pupil K-12 education funding to provide education savings accounts (ESAs) to families, enabling them to access their child's share of state per-pupil funding to pay for online courses, online tutors, curriculum, and textbooks so that their children can continue learning. Students are currently unable to enter the K-12 public schools their parents' taxes support. They should be able to access a portion of those funds for the remainder of the school year in the form of an ESA. Parents would receive a portion of their child's per-pupil public school funding in a restricted-use account that they could then use to pay for any education-related service, product, or provider of choice. Additionally, state restrictions on teacher certification should be lifted immediately to free the supply of online teachers and tutors, allowing anyone with a bachelor's degree to provide K-12 instruction online. Research suggests that there is little if any difference in student academic outcomes between teachers who are traditionally certified, alternatively certified, or not certified at all. States should work with school districts to reopen districts based on data about where the disease is prevalent or waning. Decisions about whether to keep schools closed should be medically determined by zip code, tied to districts. Districts that have low incident rates should begin plans to

reopen, and all school districts should have emergency response plans (including quick transitions to online learning) if they are forced to close again.

The Commission recommends that states remove occupational licensing requirements.

States have imposed numerous occupational licensing requirements that in many instances are simply artificial barriers to entry that can inhibit individuals' ability to pursue entrepreneurial work. These should be eliminated. Similarly, states should extend reciprocity so that licensed individuals in one state are not subject to additional requirements in the new state. Eliminating or significantly reducing occupational licensing requirements can help to get people back to work and can also provide a state with access to individuals with high-demand skills. For example, Massachusetts created a one-day approval process to license doctors with out-of-state licenses as a means to expand access to medical care in response to the virus.

The Commission recommends that states reduce regulatory burdens on essential services.

States should continue to streamline or eliminate regulatory requirements on essential services. For example, states and local governments should repeal laws that prohibit some businesses (such as trucks from the alcohol industry) from delivering grocery supplies to stores and consumers. States should also repeal unreasonable day-care licensing requirements that make day care very costly for parents and limit their options to return to work. Hospitals and medical providers that can demonstrate that they have plans in place to protect the spread of COVID-19 should be allowed to reopen and offer services that have been deemed "non-essential," which includes cancer treatments.

The Commission recommends that local governments should be mobilized by governors and other levels of government.

A lesson learned from natural disasters of the past is that it is the responsibility of local officials to coordinate non-governmental organizations (NGOs), religious communities, and other local institutions to help individuals who are sick or need additional assistance. The federal and state governments are not equipped to provide much individual engagement. Therefore, information-sharing between local governments on best practices should be facilitated to encourage local mobilization.

RECOMMENDATIONS: LOCAL GOVERNMENTS



Local governments are critical to deploying guidance and action plans framed by state governors. They also are the closest touchpoint to local needs, provide essential support services, and maintain and have access to unique relationships with community leaders, businesses, nonprofits, and faith-based organizations that can effect change.

The Commission recommends that local governments, including local public health officials, protect the vulnerable and reexamine the triage grid of health services: While COVID-19 can affect any demographic, the mortality rate is higher for some groups than it is for others, especially the elderly and those with co-morbidity factors. Vulnerable populations should not be at the bottom of the triage process. There should be no invidious discrimination against vulnerable populations, including the elderly, the medically fragile, and persons with significant disabilities, in the triage process. They should always be treated with dignity and a recognition of their inherent and equal worth as human beings. Local governments, supported by their state, should consider taking special measures to guard these groups from the virus, including particular efforts at nursing homes, in elderly communities, and for those with compromised immune systems. When reopening most of the economy, special provisions should be made to protect members of these groups.

The Commission recommends that religious organizations, including houses of worship and faith-based aid organizations, should be treated equally with secular organizations. Faith-based aid organizations have always been on the front lines of humanitarian crises in America. Religious communities play a critical role in American life at all times by providing religious instruction and guidance to members, a sense of community, and social services. They are fighting COVID-19 with the distribution of goods and services, including medical care and free meals, as well as by building mental and emotional resiliency. State and local governments should observe the Supreme Court's 2017 *Trinity Lutheran* decision, which held that government authorities may not exclude religious groups that are otherwise eligible from competing for government benefits because of their religious status. Nor should faith-based organizations be treated differently because of their religious beliefs. Their employees and volunteers should be included as "essential workers" if they are engaged in work that is similar to or comparable to the work of those in secular organizations who are engaged in COVID-19 relief efforts and should also be deemed "essential workers." Clergy should be deemed essential and, like hospitals and medical providers, be allowed to offer services if they have a plan in place to mitigate the spread of COVID-19. Houses of worship should not be targeted by state or local authorities for discriminatory treatment as the reopening of comparable places of assembly moves forward.

RECOMMENDATIONS: FEDERAL GOVERNMENT



There is no single national solution to the recovery process. However, the federal government plays a critical role in supplying reliable information and guidance, reducing barriers to recovery, and providing a backstop of resources where states need more supply. The role of the federal government ought to be to support and complement governors in bringing their communities back to life. The federal government should assist state and local leaders in expeditiously reopening businesses and schools except in communities where an outbreak is occurring or believed to be imminent.

EXECUTIVE BRANCH

The executive branch is uniquely positioned to collect and communicate macro-level trends and information about the virus. Such information is essential to informing decision-making at the state level. It can also reduce regulatory barriers to acquiring knowledge about the virus, developing and approving private-sector products and equipment to contain and defeat the novel coronavirus, and giving businesses the flexibility they need to return to work.

The Commission recommends that the President and the White House provide high-profile public education. The Administration should continue regular briefings, as needed, to educate the public on the progress against the pandemic. With most people having been convinced that they are not safe unless they remain in their homes, it will be a challenge to convince them that they can now return to more normal social and economic activity. This is especially true because new cases will continue to be reported. This will be interpreted by some as the result of a retreat from needed measures to protect public health, including social distancing. People will need to be reassured that it is safe to work and patronize local businesses. Robust public education should include reinforcing Americans' mutual responsibility and accountability to others through appropriate, targeted "social distancing" and other hygienic and nonpharmacologic interventions (NPI).

The Commission recommends that the President direct federal agencies to provide additional access to

information on the spread of the novel coronavirus, including modeling and data. Federal agencies should require that any modeling, codes, or data that have received federal funding be made publicly accessible and should encourage others to do likewise. While certain protections may need to be put in place, the freer flow of information can improve the quality of models, vet ideas, and increase access to information for states and institutions for decision-making. This should also include establishing a national portal of open data that has consistency in metrics and measures to provide greater visibility of outbreaks and facilitate the flow of information and services to such an area. A consistent national portal facilitates state and local situational awareness, reinforces consistency of standards that can be carried out locally, and aids physicians.

The Commission recommends that the Administration take additional steps to stabilize the health care system and mediate between state needs. Reopening of the economy should be based on confidence that the health care system could handle the situation in the very near future in areas currently with the virus or that evidence suggests could see a wave of outbreaks. Some elements of the American health care system are under significant strain from the novel coronavirus epidemic. Concerns about the availability of personal protection equipment (PPE), ventilators, intensive care unit (ICU) beds, and the health and welfare of health care professionals are significant. However, the need currently is not the same across the country. The President should mediate needs between states and use the strategic national stockpile in concert with state-level platforms like the Emergency Medical Assistance Compact (EMAC) as a whole-of-country approach to deploy resources effectively.

The Commission recommends that the Department of Health and Human Services (HHS) do more to increase innovation in medicine. Federal officials should not discourage physicians' efforts to prescribe therapeutics that show promise in off-label uses for COVID-19 treatment while also accelerating the development and approval of new therapeutics and a vaccine. This includes regulatory reforms at the Food and Drug Administration (FDA), CDC, and other agencies like the Environmental

Protection Agency (EPA) to fast-track approval processes and allow for novel testing of persons and disinfectant technologies for protective and other equipment outside of traditional categories or siloes.

The Commission recommends that the President call for a review of all regulations that must be waived with new COVID-19 rules and guidance documents and consider serious long-term changes in those regulatory programs. This clear statement would send a strong signal and provide more long-term confidence and stability. The U.S. federal government has rapidly made regulatory adjustments to facilitate a quick and effective response to the COVID-19 pandemic, but out of necessity, most changes in existing regulatory programs have been short-term fixes. Many, if not most, of the changes will last only for the duration of the national emergency. We need long-term programmatic reforms to ensure that our regulatory regimes work in good times and bad and that our programs facilitate innovation and market advancement while also securing health and safety. The President should direct by executive order that all agencies involved in the management of this public health emergency inventory, review, and consider making long-term modifications to all regulatory actions that have been waived, modified, or otherwise implicated in the government's response to COVID-19. This should include all pre-COVID-19 regulatory actions—including regulations, guidance documents, forms, processes, and the like—that have been at issue in the government's response. The White House and relevant agencies should carefully assess the underlying statutory mandates and authorities for these regulations, reassess their costs and benefits, and consider locking in many of the changes and streamlined procedures that have been introduced in recent regulations and guidance documents. For example, the FDA should carefully reconsider the many establishment registration, device listing, and general operating procedure rules it has recently waived; the EPA should consider making permanent many recent expedited approval processes; and HHS should consider making permanent its changes in telemedicine and medical practices.

The Commission recommends that the President call for a review of all regulations that inhibit economic growth and extend the two-for-one and centralized review requirements to the independent regulatory commissions and agencies. This clear statement would send a strong signal and promote more long-term confidence and stability. The President correctly identified regulatory reform as key to economic growth and prosperity, and he has pursued reform vigorously for the past three years. As something of an historical artifact, however, most of his key regulatory reform initiatives—

such as the two-for-one requirement, the zero-dollar new regulatory cost cap, and formalized regulatory reform task forces to drive the reform agenda within the agencies—have been focused only on agencies that formally report to the President. They have not extended to the so-called independent agencies and commissions such as the Securities and Exchange Commission, Commodity Futures Trading Commission, and Federal Energy Regulatory Commission, largely because those agencies have long been exempted from the centralized regulatory review requirements of the White House's Office of Information and Regulatory Affairs within the Office of Management and Budget. Those agencies should now be included in centralized review, and all prior regulatory reform executive orders should be extended to the independent agencies. This would effectively serve as an important White House–led second wave of major regulatory reform activity. These agencies have already undertaken a good amount of this activity, but it is not coordinated and White House–led and tabulated as part of the Executive Branch–wide deregulatory contributions to a more robust economy. A change like this would also have considerable long-term positive benefits, as centralized review would likely be maintained by future Administrations even if the deregulatory element were eliminated. That review process includes a requirement to conduct cost-benefit analysis, coordinate with other agencies, operate in a much more transparent way, and take much more seriously the need to provide fair notice and due process to regulated entities. The benefits of this process are widely recognized in the areas in which they are currently applied, and their extension to new regulatory activity would undoubtedly have long-term positive consequences beyond the immediate deregulatory push.

The Commission recommends that the President direct agencies not to enforce a range of regulations against small businesses. This is a shorter-term measure, but it should facilitate lending and enhance market activity. Many small businesses are applying for various benefits under the CARES Act. Many of those businesses do not have lawyers and lobbyists, yet they are required to make numerous assertions and commitments. The President should direct his agencies to tread lightly with small businesses that have had to fall on the mercy of these programs and perhaps extend that grace more broadly to all small businesses until we are fully recovered. Agencies have the ability to exercise what is known as enforcement discretion, which allows them simply to prioritize the enforcement of some rules and deprioritize the enforcement of other rules. At times, including recently, agencies have issued written policies of nonenforcement or intentions not to enforce requirements. Many of these have been very good, but a presidential call for a wide-scale policy of

nonenforcement would send a very strong signal to businesses that the government is not going to come down hard on them as they try to get back up and running.

The Commission recommends that the Administration reduce tariffs to spur economic growth and reinvigorate supply chains. Unsurprisingly, global trade will decrease because of the coronavirus. The World Trade Organization has forecasted global trade to fall between 13 percent and 32 percent in 2020. The removal of U.S. tariffs would not only benefit the economy in the long term, but also help speed the recovery by stimulating trade, providing great relief to American companies that trade, and assisting job creation through supply chains down to the companies' clerks.

The Commission recommends that the relevant agencies make interim guidance and interim final rules streamlining crisis response permanent. Rules and guidance to the private sector to retool infrastructure for PPE production have been and will continue to be important as part of preparing for potential future outbreaks of coronaviruses. Rather than temporarily waiving requirements, the Administration should provide policy certainty for rules that are currently proving to work well. These have the added benefit of empowering smaller or older businesses to repurpose old equipment to new productive uses.

U.S. CONGRESS

Congress's power of the purse has provided and should provide strategic, targeted economic relief for taxpayers, families, and businesses of all sizes. Congress can also reduce burdens on states, giving them much-needed flexibility. Certain temporary measures in the CARES Act providing relief from legal requirements should be made permanent to provide states, businesses, and individuals with the policy certainty and confidence to make decisions. Finally, Congress plays an important gate-keeper role in protecting civil liberties.

The Commission recommends that Congress should provide funding to facilitate access to testing in coordination with the President. The current data for determining who has and has not had the virus are derived from serological testing—testing for the COVID-19 antibodies in the bloodstream—but such testing will not be available on a wide-scale basis for many weeks. Private companies should be leading the creation and distribution of testing and related materials (e.g., swabs and cartridges). As testing becomes available, Congress should provide funds to ensure that voluntary diagnostic tests can be done at no cost to the individual to

encourage liberal use of diagnostic tests that are in the interests of public health and economic recovery. Such a decision would build on the recent announcement by the Centers for Medicare and Medicaid Services (CMS) that it will raise the Medicare reimbursement rate for high-throughput coronavirus molecular tests from about \$51 to \$100.

The Commission recommends that Congress provide additional relief for small and medium-size businesses in the form of grants in order to provide necessary liquidity. Many small and medium-size businesses are currently experiencing a major liquidity shortfall and at some point will have no choice but to close permanently. Because government orders forced those companies to close, Congress should provide additional funds in the form of a targeted grant to help these businesses with actual shortfalls. Congress should also better target Paycheck Protection Program forgiveness to actual revenue losses and provide adequate funding if it is achieving its goal of keeping workers employed amid temporary slowdowns and shutdowns.

Congress as well as state and local legislators should defer payment of or forgive a wide range of taxes and licensing or permitting fees. Small businesses face grave resource restraints, and this would reduce the substantial resources they must currently devote to paying taxes and fees imposed by government. Instead, they should be allowed to use these resources to reopen their businesses and employ people. Congress has delayed tax filing and payment deadlines to July 15. Congress could go one step further by eliminating interest and penalties on all 2020 tax payments, requiring businesses and individuals to file but effectively delaying the payment of federal taxes.

The Commission recommends that Congress enact a physical presence standard for tax liability. In 2018, the Supreme Court of the United States upheld a South Dakota law that requires out-of-state businesses to collect the state's sales taxes on goods sold to customers in the state, even if the business has no physical connection—or political recourse—in the customers' state. Small retailers now operate in a world without the protection of the physical presence standard. Every small business that sells online now can be subject to the more than 10,000 different taxing jurisdictions around the country—each with its own tax rates and rules about what is taxable. The regulatory compliance and tax assessment risks from state revenue collectors around the country were threatening to bankrupt many small retailers before the COVID-19 crisis. These rules are now prohibiting small distributors from re-

tooling to ship new products during the crisis for fear of regulatory entanglement. Congress should protect vulnerable retailers by codifying a physical presence test for tax collection.

The Commission recommends that Congress should correct unemployment insurance (UI) provisions and increase workers' flexibility. Specifically, Congress should allow workers to accumulate paid leave and help businesses smooth their cash flows, similar to what has been proposed in the Working Families Flexibility Act. At the same time, federal policymakers should fix the \$600 bonus UI benefit to cap UI benefits at 100 percent of previous earnings (and possibly also reduce the time period through which the bonus benefit is available until the end of June instead of July 31). This benefit makes it possible for a majority of Americans to make more money by becoming unemployed than by remaining employed and expands eligibility if “the individual has to quit his or her job as a direct result of COVID-19.” Congress should cap the \$600 added federal benefit so that workers do not receive more than 100 percent of their previous earnings for becoming unemployed.

The Commission recommends that Congress should expand liability protections associated with the novel coronavirus. Congress should create a safe harbor for businesses and workers that follow CDC guidance and proper testing protocol in good faith. This safe harbor would provide much-needed confidence and stability that encourages business owners to reopen.

The Commission recommends that Congress should clarify the definition of employee for the purposes of the programs created by the CARES Act. Congress should clarify the definition of employee using the common-law test for all purposes to avoid double-dipping of benefits and to establish clear eligibility for the purpose of counting employees as part of CARES Act programs, such as the Paycheck Protection Program.

The Commission recommends that Congress treat businesses equally in the application of mandated paid sick and family leave. Congress should end the inequity of the mandate for employer-provided paid sick and family leave (applying to small businesses but not large ones). Congress should also do more to help reduce unemployment among workers of larger employers, such as increasing access to the employee retention tax credit so that companies do not have to have a 50 percent drop in revenues to qualify and changing the credit to cover a portion of employees' wages paid when they are not working.

The Commission recommends that Congress should take steps to advance permitting reform. Many trades and good-paying jobs in America require permits and credentials that take hundreds of hours and many resources to obtain. At a time of great economic dislocation, we have to eliminate barriers to getting new jobs. Much work has been done on this topic over many years, and now is the time to complete it. We cannot allow people on the bubble to slip into dependence on government. We have to simplify the pathway back into the labor force, including to a skilled trade or other job that is currently walled off by nonsensical credentialing requirements. That means coordinating permitting requirements across jurisdictions and having express federal guidance that these should generally not be required or should be as minimally burdensome as possible.

The Commission recommends that Congress create a good-faith shield for small businesses. This should enhance lending and accelerate market activity. Congress should create a good-faith shield for small businesses participating in the CARES Act programs or that tried to participate in the programs but, for whatever reason, could not do so. If companies are operating in good faith to complete the forms and make business representations, they should not fear federal enforcement for good-faith mistakes. Congress could effectively solidify the policy of nonenforcement across all agencies participating in the response for some meaningful duration, such as five years from the receipt of funds or filing of forms. This would also help to ensure that banks lend more readily to small businesses that are trying to participate in the relief programs.

The Commission recommends that Congress should provide the President, the Office of Information and Regulatory Affairs, and Cabinet department Secretaries the ability to suspend costly regulations without extensive process. The basic architecture governing the development of regulations is actually quite good—so good, in fact, that creative minds bent on overregulating have developed a wide range of quasi-regulatory activities to circumvent the orderly and reasonable process, thereby dramatically increasing the overall regulatory burden on the American people. Congress should empower the President to short-circuit the process, thereby enabling more deregulatory actions. We should effectively create what is known in the regulatory world as a “one-way ratchet” in favor of liberty-enhancing regulatory activity and against unduly burdensome regulatory activity. One version of this approach currently exists in cost-benefit analysis, but for a variety of reasons, that analysis at times has been used inappropriately to justify extremely onerous regulations. A mechanism that allows for the unilateral or expeditious suspension of costly regulations

would give the President a strong tool to wield in the effort to reduce regulatory burdens at a time when the economy very much needs to be freed from such burdens.

The Commission recommends that Congress increase the Universal Charitable Deduction cap. The CARES Act permits deductions of charitable gifts up to \$300 for filers who take the standard deduction. This cap should be increased or removed. This will aid nonprofit organizations, which are struggling with increased demand for their services or reduced income due to government restrictions.

The Commission recommends that Congress provide spending flexibility for education. Federal lawmakers should extend the waivers and spending flexibility provided through the CARES Act. The proposal allows schools, for example, to carry forward unused Title I spending and repurpose existing professional development spending for online instruction. Federal and state lawmakers should allow such flexible spending to continue and give schools more discretion to devote resources to areas of need. The spending flexibility offered through the CARES Act is an example of systemic change that could help schools now and in the future. Congress should allow states to use all of their existing federal education dollars for any lawful purpose under state law.

The Commission recommends that Congress should address issues in the health care system that decrease flexibility and inhibit access to care. Congress should codify recent changes by the Administration to allow more flexibility in how doctors practice medicine. A good place to start is codifying the Administration's efforts to remove barriers to the adoption of telemedicine, which allows patients and doctors to consult remotely. This can help reduce the spread of COVID-19 by letting people get care without waiting in crowded waiting rooms. Congress should go beyond these efforts and ensure that all patients who want to seek telemedicine care can do so across state lines, regardless of where a doctor is located.

The Commission recommends that Congress make federal funding portable for children from low-income families and children with special needs. Congress should immediately make funding authorized under the Individuals with Disabilities Education Act (IDEA) student-centered and portable, allowing children with special needs to access learning services to which they are entitled under federal law. These IDEA funds could be used to pay for in-home tutors and behavioral therapies, among numerous other allowable uses, to help children with special needs continue to have access to critical service providers. Similarly, Congress should allow federal

Title I dollars for low-income districts to follow students to private online education options of choice.

The Commission recommends that Congress support the education of military-connected children. The federal government has a mandate to oversee and provide for the national defense. The children of active-duty military families currently do not have access to the public schools nearest to the base to which their parents are assigned. Congress should provide the children of active-duty military families with education savings accounts, enabling them to access online tutors, online courses, textbooks, and curricula, to provide educational continuity during this time.

The Commission recommends that Congress expand access to 529 savings accounts. While millions of children—and their parents—are experiencing homeschooling for the first time, Congress should allow Americans to access their 529 savings plans for homeschooling expenses. Those 529 savings plans are tax-neutral savings accounts funded with after-tax dollars contributed by the account owner or anyone else who wishes to put money into them. Anyone can contribute to a designated beneficiary's 529. Interest that accrues in the fund is tax-free as long as funds are put toward K–12 and higher education expenses. That means that there is no “second layer” of tax on the savings and investment in the account. Withdrawals from 529 savings accounts for qualified education expenses are not included in taxable income. Currently, 529 saving plans can pay for a broad range of education-related costs, such as college expenses and, more recently, private elementary or secondary school tuition in certain states. Yet homeschooling expenses are excluded from the eligible uses of 529 savings accounts. Immediately expanding qualified expenses to include homeschooling—reflecting the fact that nearly every American family currently has to homeschool as a result of COVID-19—would be a timely and targeted policy.

The Commission recommends that Congress protect civil liberties while creating any new programs related to testing, contact tracing, or any other public health measure. The erosion of civil liberties in the name of security is never temporary, as we have seen post–September 11. America must not devolve into a surveillance state; such power is always susceptible to abuse and is a distinct danger inherent in the deployment of contact-tracing technologies. Congress should both investigate privacy issues regarding utilization of IT solutions and provide incentives for the development and deployment of those technologies consistent with American values and law.

RECOMMENDATIONS: BUSINESSES, THE PRIVATE SECTOR, AND CIVIL SOCIETY



As cities and regions “reopen,” businesses, civic and community organizations, and religious institutions are invaluable in helping to get people back to work, helping to put lives back on track, and helping communities to stay vigilant and prevent another outbreak. The private sector and civil society already have played and will continue to play an important role. In fact, civil society is perhaps the segment of America that has shown most brightly in this crisis as everyday Americans have rallied in creative ways to help each other.

The Commission recommends that private businesses and organizations should lead to expand and develop testing capabilities. Private organizations should be leading the creation and distribution of testing. While much is still unknown about the virus’s nature, we should leverage the serological testing regarding immunity. The testing should be expanded so that it can be easily administered by individuals in their own homes to protect medical professionals and preserve resources.

The Commission recommends that companies and others offer tests to those with whom they work. Businesses and communities (such as nursing homes, and retirement communities) should develop their own plans to offer their workers and residents tests based on their own risk profile to detect and isolate infected individuals and trace contacts. For example, employers could pay for employees’ tests as a condition of their return to work. An employer could then provide privacy-protected, anonymized data to officials without identifying information to aid the effort to supply data needed to understand local trends of the virus’s impact.

The Commission recommends that corporations and private businesses work in conjunction with state and local governments to develop best-practice protocols, including testing, to strengthen their defenses against reoccurrence of viral spread. The objective of best practices and testing should also be to provide early warning surveillance and thoughtful viral spread

defenses so that, in the event of a local or an area-wide viral outbreak, the business entity is best positioned to continue operations. Ideally, the business entity can aid local government by sharing privacy-protected anonymized testing data and by working to reduce any spread of disease through testing and contact tracing. The company, with hardened defenses, can also serve the community at large by maintaining employment and contributing to the strength of the local economy.

The Commission recommends development of work plans for employees from industry and businesses that reflect state and local directions. Businesses should encourage and facilitate “work from home” wherever possible. Where this is challenging, businesses should encourage and facilitate continued social distancing in the workplace, encourage shift-work strategies, and minimize mass gatherings wherever possible and as informed by public health for retail, entertainment and restaurants and clubs if and when reopening such establishments becomes safe and appropriate.

The Commission recommends that private businesses and industry associations share best practices for back-to-work plans. Industry-specific sectors should develop and share back-to-work plans that might involve employee testing, social distancing, altered office and equipment layout, process modifications, routine deep sanitation, use of personal protective equipment, and other innovative ideas to protect employees and customers to meet CDC guidelines to enable a return to work and protect employees and customers. To support the dissemination of ideas, private businesses and industry organizations should consider developing a database of best practices to share with members.

The Commission recommends increased communication to young people about the need for public health measures. Leaders who work with young people should be engaged, especially as some evidence suggests that young people are the least likely to understand how their actions affect those who are at greater risk (e.g., their parents and grandparents).

The Commission recommends increased outreach and education to minority communities in partnership with grassroots and civil society organizations because of the disproportionate effect of this virus on those groups. For instance, in New York City, the mortality rate (per 100,000 people) for African Americans and Hispanics with COVID-19 is more than 200 and 160 percent higher than that of whites. Likewise, in Arizona, 16 percent of all cases are Native Americans though they comprise 4.5 percent of the state's population. The Surgeon General has advocated for successful mitigation efforts to slow the spread of the virus and allow a return to normal life. Grassroots organizations, churches, NGOs, and state and local governments all should be vehicles to promote and explain the Surgeon General's message. Regardless of their race or color, Americans must be even more vigilant in adhering to mitigation efforts if they must leave their homes each day to go to work. If minority communities are not participating in recommended risk avoidance, they risk a slower return to normal. At the same time, it is critical that minority owned businesses have access to information from both public and private institutions on how to access financial resources that will be necessary to keep them afloat. One additional avenue for the dissemination of information to distressed communities might be through HBCUs who can provide information on programs available to small and medium sized business owners including online cours-

es aimed at helping mitigate the economic consequences of the pandemic.

The Commission recommends increased investment in and focus on mental health support in partnership with NGOs, faith-based communities, and civil society. Community organizations are already noting mental health challenges for people experiencing social isolation and stress. Communities need programs designed to address mental health problems specifically related to the isolation of pandemic.

The Commission recommends reexamining the triage grid of health services. Vulnerable populations should not be at the bottom of the triage process. The elderly, the medically fragile, and persons with significant disabilities should always be treated with dignity and a recognition of their inherent and equal worth as human beings.

The Commission recommends greater emphasis on bipartisanship to restore trust. Our leaders must restore trust in American democracy and institutions. If we address how to get back to work without considering the overarching question of trust, we run the risk of missing the central concern and will not have societal trust to sustain our country and democracy. Our leaders must work to rebuild this trust by resisting the temptation to "score political points" and by seeking bipartisan implementation of bipartisan solutions.

About the Commission



Our country is facing one of the greatest challenges of our lifetime. The lives and livelihoods of millions of Americans are now at stake from an invisible enemy: the coronavirus and COVID-19.

The National Coronavirus Recovery Commission is bringing together some of the nation's top experts and thinkers to offer their specialized experience and expertise to chart the path ahead.

Our mission is to save both lives and livelihoods, helping to navigate our nation through this crisis and toward recovery. Specifically, we will address when and how to begin to get Americans' lives "back to normal" again.

The National Coronavirus Recovery Commission will provide the American people and their policymakers with a set of recommendations for how to make this happen. In a series of meetings over the course of the month of April, during President Trump's announced "30 Days to Slow the Spread" initiative, the commission has been weighing what comes next and how to

move prudently toward recovery through addressing two primary issues:

1. How to weigh the competing factors associated with crisis mitigation.
2. How to determine the best way to transition to recovery and restoring normal lives—Americans' ability to go about their usual days; see families, friends, and communities; and return to work.

The challenge at hand is a public health crisis with unprecedented implications. At this point in the progression of COVID-19, good public health policy is good policy: Americans' normal lives will rebound when the American people are healthy and confident in the public health response.

Decisions that policymakers are considering will significantly impact the scope of this crisis and the duration of social restrictions, economic hardship, recovery, and the potential permanent effects.

Commissioners



The National Coronavirus Recovery Commission is bringing together experts in medicine, economics, government, business, and human behavior.

FULL LIST OF COMMISSIONERS

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